The National Panel of Specialists

General Guidance on Medical and Dental Appointments

Including

Appointment of Consultants under the National Health Service Appointment of Consultants (Scotland) Regulations 1993

(This guidance supports the National Panel List published separately)

26 January 2007
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Scottish Executive Health Department
Workforce Planning and Development
26 January 2007
### Sources of Existing Guidance

The following guidance remains extant:

<table>
<thead>
<tr>
<th>Grade</th>
<th>Guidance/Circular</th>
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<tbody>
<tr>
<td>Staff Grade</td>
<td>Hospital Medical and Dental Staff: Pay and Conditions of Service – The New Hospital Staff Grade</td>
<td>NHS Circular No 1989 (PCS) 4</td>
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<tr>
<td>Associate Specialist</td>
<td>Hospital Medical and Dental Staff: Pay and Conditions of Service – Criteria for Appointment to the Associate Specialist Grade</td>
<td>NHS Circular No 1990 (PCS) 2 and NHS Circular PCS (DD) 1993/3</td>
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<td>Locum appointments</td>
<td>The Code of Practice in the Appointment and Employment of Locum Doctors</td>
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<tr>
<td>Medical appointments:</td>
<td>Guidance on Procedures for Obtaining Approval to the Establishment of New Medical and Dental Posts:</td>
<td>NHS MEL (1998) 3</td>
</tr>
<tr>
<td>Associate Specialist</td>
<td>* Scottish Advisory Committee on the Medical Workforce – Hospital and Community Health Services Sub-committee (SACMW-HCHS) *</td>
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<td>Dentistry appointments:</td>
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<tr>
<td>Consultant Associate Specialist</td>
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<td>Doctors and Dentists in Training</td>
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</tr>
<tr>
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<td>Operational Framework for Foundation Training</td>
<td>Scottish Executive 2005</td>
</tr>
</tbody>
</table>

*Note: Grades are expanded to provide context for specific guidance references.*
The following guidance is revoked:


Contacts for enquiries on the National Panel

For general enquiries:

Veronica Moffat
Scottish Executive Health Department
Workforce Directorate
Education and Careers
St Andrew’s House
Edinburgh
EH1 3DG

Telephone: 0131 244 1712
Fax: 0131 244 2837
e-mail: veronica.moffat@scotland.gsi.gov.uk

Secretary to the National Panel:

Dr Ricky Bhabutta
Scottish Executive Health Department
Workforce Directorate
Education and Careers
St Andrew’s House
Edinburgh
EH1 3DG
Due to the objective and structured arrangements in place for recruiting to Specialty Training (both fixed-term and run-through posts) under Modernising Medical Careers (MMC), National Panellists will not be required for this process. Therefore, all paragraphs relating to ACs for SpRs have been removed.

The Scottish Health On the Web (SHOW) vacancy database is now counted as one of the two UK publications where NHS Boards in Scotland can advertise vacancies. No other internet sites will be counted.

Arrangements for Locum Appointments in Training will now be handled either via Specialty Training arrangements or Locum Appointment arrangements. Neither route requires National Panel input so these references have been removed from the guidance.

The AC for Honorary SpRs will no longer need input from the National Panel of Specialists.
 Purpose of the Guidance

1. This Guidance aims to assist both Health Boards and members of the National Panel of Specialists when appointing to grades that ordinarily require members of the National Panel to form part of the Advisory Appointment Committee. These fall into two groups:

- **Consultant and equivalent grades.** These are appointments made under the NHS (Appointment of Consultants) (Scotland) Regulations 1993 where two members of the National Panel of Specialists are required. A copy of the Regulations is attached at Annex A.

Throughout this Guidance, the statutory appointments committee is referred to as the Advisory Appointment Committee (AAC).

- **Other grades where participation of members of the National Panel of Specialists is recommended by the Scottish Executive.** These include:
  - University appointments for Honorary Consultants (2 National Panellists)
  - Associate Specialist (1 National Panellist)
  - Staff Grade (1 National Panellist)
  - Hospital Practitioner (1 National Panellist)
  - Clinical Scientist (1 National Panellist)
  - Senior Non-consultant Dental Officer (1 National Panellist)

Throughout this Guidance, these non-statutory appointments committees are referred to as Appointment Committees (ACs).

NB: Under Modernising Medical Careers (MMC), Specialist Registrars (SpRs) will be known as "Specialty Registrars". Due to the objective and structured arrangements in place for recruiting to Specialty Training, the National Panel of Specialists will no longer be required to sit on ACs to recruit to this grade.

Background to the National Panel of Specialists

2. The National Panel of Specialists was first established in 1948 under the NHS (Appointments of Medical and Dental Officers) (Scotland) Regulations 1948. These regulations provided for members of the National Panel to sit on AACs. Originally there were 75 members on the Panel.

Nominations to the National Panel of Specialists

3. The current National Panel of Specialists is established under The National Health Service (Appointment of Consultants) (Scotland) Regulations 1993. These require there to be a maximum of 350 National Panel members appointed by Scottish Ministers:
• a maximum of **70** are nominated by the Universities of Aberdeen, Dundee, Glasgow and Edinburgh:

• a maximum of **225** are nominated by the Royal Colleges and Faculties, currently listed as:
  - The Royal College of Anaesthetists
  - The Royal College of Obstetricians and Gynaecologists
  - The Royal College of Ophthalmologists
  - The Royal College of Paediatrics and Child Health
  - The Royal College of Pathologists
  - The Royal College of Physicians of Edinburgh
  - The Royal College of Physicians and Surgeons of Glasgow
  - The Royal College of Psychiatrists
  - The Royal College of Radiologists
  - The Royal College of Surgeons of Edinburgh
  - The Faculty of Occupational Medicine of the Royal College of Physicians of London
  - The Faculty of Public Health of the Royal Colleges of Physicians of the United Kingdom

• the remaining **55** Panellists are nominated by the Scottish Ministers to balance geographical and specialty interests.

4. Members are appointed to the National Panel for a period of 4 years. At the end of their term of office, they may be re-nominated. The Panel year runs from 1 May until 30 April of the following year. Approximately 25 per cent of the Panellists finish their term of office each year and new nominations are sought. It is possible for Panellists to “re-sit” for another term of office.

5. A list of National Panellists, presented by specialty, is published every year by the Scottish Executive in association with this Guidance and posted onto the Scottish Health On the Web (SHOW) website. The Guidance and List are notified to NHS Boards via an HDL.

6. **Temporary appointments** may be made to the National Panel of Specialists to meet particular circumstances, for example, where a new specialty is involved, or where there are insufficient panellists with the relevant experience in the specialty or sub-specialty concerned. Boards may appoint a Temporary Panellist to sit on an AAC/AC only when the Scottish Executive has granted approval. Boards should contact the Secretary to the National Panel in these circumstances. See page 5 for contact details.

**Role of National Panellists**

7. National Panel members of an AAC should also take account of separate guidance issued to them on their role and responsibilities by Health Boards and of relevant professional guidance such as that issued by Royal Colleges and their Faculties.
8. As full members of the AAC/AC, National Panellists:

- advise the AAC/AC on whether candidates have sufficient training and experience in the appropriate specialty or specialties to enable them to carry out the duties and professional responsibilities of the post. In doing so, Panellists should take account of the relevant professional guidance issued by Royal Colleges and Faculties;

- are involved in short-listing procedures;

- have full voting rights in the AAC/AC; and

- are able to make comments on any aspect of the appointment, under the guidance of the Chairperson of the AAC/AC.

9. Panellists are required to be consulted in confirming the job description for an AAC (see paragraph 37) and should also be consulted for other ACs.

Selection of National Panellists for AACs and ACs

10. Boards should invite Panellists from the list published annually by the Scottish Executive to sit on the AAC/AC to meet the need of particular posts. They should select Panellists from the most appropriate specialty or sub-specialty. Where it is not possible to obtain a Panellist in the most appropriate specialty, Boards should look to the next appropriate specialty. If there is any doubt in identifying members of the National Panel in the most appropriate or next appropriate specialty, Boards should seek professional advice to identify the relevant specialty of the National Panel. In cases of difficulty, Boards and Panellists can contact the Secretary to the National Panel.

11. The National Panel does not have representation from every existing sub-specialty. Therefore, Chairs of AACs/ACs are asked to take a rational approach to securing appropriate National Panel representation. E.g. for a post in paediatric intensive care, if a National Panellist with this experience is not available, a National Panellist with Paediatrics as their specialty and another with Intensive Care as their specialty would be a suitable alternative.

12. If a National Panellist is invited to serve on an AAC/AC but feels that they cannot accept because of other commitments, they should inform the Chairperson of the AAC/AC and/or the Board making the appointment as soon as possible.

13. Prospective members of an AAC/AC (including National Panellists) should notify the Health Board immediately if they become aware that they are no longer able to attend an AAC on the date set. The Board should then find an appropriate replacement. Only in extreme circumstances should it be necessary to cancel an AAC.
Participation on AACs/ACs – Availability

14. Boards should endeavour to give as much notice as is practicable (at least 8 weeks) to enable National Panellists to make the necessary arrangements for their participation.

15. Before being appointed to the National Panel, individuals should have explicit agreement from their employer to undertake external duties as a National Panellist.

16. Boards should make every effort to release medical and dental practitioners to participate as members of AACs/ACs and should explain to the recruiting Board if this is not possible.

Concerns about an AAC/AC

17. If a National Panellist has accepted an invitation to serve on an AAC/AC and has doubts about the role they are being asked to discharge, the conduct of or recommendations being made by the AAC/AC, they should raise the matter initially with the Chairperson of the AAC/AC or relevant Board. They can also raise the matter with the Secretary to the National Panel.

Fees and Travelling Expenses

18. National Panellists are entitled to a fee and travelling expenses if they serve on an AAC outside their own employing body and have no (or prior to retirement had no) contractual commitment with the Board making the appointment. These fees are uprated annually and published in the Pay Circular for Hospital, Medical and Dental Staff and Doctors in Public Health Medicine and the Community Health Service and the Pay Circular for those on the New Consultant Contract. Fees and travel expenses are paid for by the Panellists’ own employing body and not by the employing body making the appointment (except if the Panellist has retired). Consultants on the new Consultant Contract are only entitled to a fee if the AAC duty is undertaken outside agreed programmed activities.
Part I

General Guidance for Statutory Advisory Appointments Committees (AACs) and other Appointment Committees (ACs)
Role of the AAC/AC

19. The AAC/AC will agree criteria against which candidates will be considered. They will interview candidates for the post, assess their suitability and make recommendations to the recruiting NHS Board.

Constitution of the AAC/AC

20. The particular post to which Boards are making an appointment dictates the constitution of the AAC/AC. In general, the following individuals will sit on the Committee:

- from the Board:
  - Chairperson of the Committee
  - Chief Executive (or recognised Deputy)
  - Professional persons

- from the National Panel of Specialists:
  - 1 or 2 National Panellists

- from the University (where appropriate):
  - 2 or 4 representatives

- Postgraduate Dean or Deputy (where appropriate)

There should be a process in place to ensure equity – i.e. the AAC/AC should be representative. More detail on the constitution of Committees is outlined in Parts II and III of the Guidance.

Additional Attendees

21. The Chairperson may invite additional officers from the Health Board or other relevant body to attend any meeting of the AAC/AC to provide administrative support, offer general assistance and answer questions of fact. However, they would have no voting rights.

22. Boards may wish to nominate an officer with extensive knowledge of personnel matters and equal opportunities legislation to provide advice and support to the AAC/AC.

Impartiality

23. Boards should avoid any question of partiality arising from the recommendations of an AAC/AC and should endeavour to see that no close relative of the candidate or candidate’s spouse serves on an AAC/AC. Any relationship or personal, professional or business connection between AAC/AC members and candidates must be declared when the Committee
meets. If this is the case, the member should stand down and an alternative member be sought.

24. Acting as a referee for one or more candidates should not, in itself, prevent an individual from sitting on the AAC/AC. However, this should be exceptional and individuals are obliged to inform fellow members of the AAC/AC if they are a referee for applicants to the post.

25. A retiring Consultant should not be a member of the AAC/AC set up to select their successor.

Confidentiality

26. Applications and any related documents, including references and testimonials, must be handled confidentially. Only members of the AAC/AC and appropriate members of staff from the employing Board should have access to such papers.

27. After the AAC/AC has produced the report and recommendations, Boards are advised to collect all documents and after 12 months, destroy them. Depending on local policy, references and testimonials may be kept on personal files.

Role of the Chairperson

28. The Chairperson of an AAC/AC has an important and varied role, which includes to:

- explain the role and responsibilities of the AAC/AC;
- reach agreement on the objective criteria or person specification, on which recommendations for appointment will be made, for short-listing and interview;
- make short-listing arrangements;
- enable interview arrangements;
- brief members of the AAC/AC and provide a relevant training update;
- ensure and respect confidentiality;
- ensure the process promotes equality and complies with relevant equalities legislation;
- summarise conclusions and confirm outcome of AAC/AC (agreement or otherwise); and
• report recommendations to the employing body, including situations where the advice of the AAC/AC is contrary to the advice given by members of the National Panel.

Training

29. The Chairperson and all members of an AAC/AC should receive training covering:

• short-listing and selection of candidates for interview;
• assessing the requirements for particular qualifications and experience in respect of a particular post;
• equality training (the AAC/AC interview procedure would need to adhere to the requirements of the current equality regulations, the public sector duties and general employment law); and
• obligations under European Union provisions.

30. If any member of the AAC/AC has not received appropriate training they must inform the Board making the appointment, and/or the Chairperson of the Committee.

31. It is the responsibility of the nominating body to the National Panel (e.g. Royal College, Faculty or University) to ensure that training has been provided for National Panellists. NHS Education for Scotland (NES) has been involved in developing training for National Panellists. Expressions of interest for training should be directed to:

Paola Solar, NHS Education for Scotland, Medical Department, Hanover Buildings, 66 Rose Street, Edinburgh, EH2 2NN.
Email: Paola.Solar@nes.scot.nhs.uk

Appointment Procedures

32. It is recommended that Boards adhere to the following 6 stages of the appointments process:

i. preparation of and agreement on a job description and person specification;

ii. advertising posts;

iii. short-listing of candidates for interview;

iv. interview of candidates;

v. AAC/AC report and recommendations on suitability of individuals; and
vi. decision by employing body

33. All potential applicants will need to be given:

- the job description;
- the person specification;
- information from the Board with details of arrangements for practice e.g. units, clinics etc;
- details of staffing and relevant services covered;
- where appropriate, information about undergraduate or postgraduate medical/dental teaching;
- appropriate equalities monitoring forms; and
- the relevant terms and conditions of service including pay and any local terms of service.

(i) Preparation of and agreement on a job description and person specification

34. Boards should plan for appointments well in advance of any post being advertised or filled. It is good practice to plan the timetable for the whole process at the outset so that all involved are aware. Boards should endeavour to give as much time as is practicable (and not less than 8 weeks) to enable National Panellists to make the necessary arrangements for their participation.

35. Points to consider in preparing the job description (although they may not apply to every post) include:

- the service to be met - this applies to both training and non training posts:
- extent and level of training required;
- extent of any teaching responsibilities (see Annex B, note 5);
- responsibilities for the supervision of junior staff;
- provisions for continuing professional development;
- research; and
- special interests.

36. Boards running an AAC must take adequate professional advice when drafting the job description, from both local sources and from outwith the employing
body’s area. It is important to consider the post alongside other posts within the clinical team and to take account of other Consultant staff within the team.

37. The job description is drafted by the Board in consultation with a member of the National Panel in the appropriate or most appropriate specialty or subspecialties. This need not necessarily be the National Panellist that sits on the AAC/AC for the particular post.

38. Boards should set out clearly the purpose of the post, the balance of work to be carried out, how it fits in with the roles of other clinicians in the team and the facilities available to allow the doctor to carry out their duties.

39. It is for the Board to decide whether to amend a job description in light of advice from National Panellists. Where a National Panellist is concerned that an employer has chosen not to accept their advice, they may wish to raise the issue with their nominating body or with the Secretary to the National Panel. This will not however prevent an employer advertising the post. Once the job description has been confirmed, a copy is sent to all members of the AAC/AC for information. The job description is not open to debate at the interview by National Panellists or any member of the AAC/AC.

40. Where a post involves the Consultant in a significant teaching commitment of undergraduate medical or dental students or a significant research commitment, the Board should liaise with the University over the job description through the Head or Dean of the relevant medical or dental school.

41. The person specification should be drawn from the job description and should outline the minimum qualifications, skills and experience required to perform the job. It should distinguish between what is essential and what is desirable. All medical candidates should be expected to meet the requirements of the GMC’s “Good Medical Practice”1.

(ii) Advertising posts

42. Posts may be advertised on a full-time or part-time working hours basis.

43. Flexible working patterns, such as job sharing, should be considered for candidates who work part-time.

44. For statutory AACs appointments, Consultant posts or their equivalent should be advertised in two nationally distributed professional journals. The Scottish Health on the Web (SHOW) vacancy database is considered as one National Publication. No other internet sites will be considered as a nationally distributed professional journal although other internet sites can be used in addition to SHOW. Other than the requirement of inclusion in the GMC’s Specialist Register, an advert for a Consultant medical post should not contain any other absolute requirements for specified higher qualifications. This may

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prevent applications from individuals with equivalent qualifications and experience. It may also be considered discriminatory.

45. The National Health Service (Appointment of Consultants) (Scotland) Regulations 1993, require that adverts for Consultant posts must specify: i) the exact nature of the appointment and, ii) the closing date for applications, which shall be at least one month from the date on which the advert appears.

46. Guidance on advertising and preparing job descriptions for doctors who are required to carry out termination of pregnancies is contained in NHS Circular PCS (DD) 2004/8.

(iii) Short-listing of candidates for interview

47. Before short-listing, the AAC/AC should agree and record objective criteria or person specification against which all candidates will be considered. Any decision on candidates should relate to these agreed criteria. The Chairperson of the AAC/AC and the employing body should discuss the proposed criteria.

48. A short-list may be formed by correspondence; alternatively, the Chairperson can decide to hold a meeting or members of the AAC/AC can request one. The Board must distribute copies of each application and the job description to all members of the AAC/AC timeously.

49. Each member of the AAC/AC, including lay members and National Panellists, must have the opportunity to contribute to the selection of candidates for interview.

50. Selection for the short-list must be based solely on the candidates’ eligibility to apply for the post and their suitability for the post (e.g. qualifications, experience and other qualities essential for the post).

51. NHS Boards HR Departments should advise the AAC/AC of the most up-to-date guidance on recruitment and eligibility issues at the start of the process.

52. AACs/ACs are advised to make a contemporaneous record of the proceedings and record their reasons for accepting or rejecting candidates against the objective criteria. Subjective decisions can be difficult to defend and may demonstrate a subconscious prejudice that might disadvantage a person or class of person unfairly. The courts or an Industrial Tribunal can question individual members, or the AAC/AC as a whole, why a particular candidate was accepted or rejected. It is advisable to keep these records for 12 months after the date(s) of interview(s).

53. Canvassing in support of any application is prohibited.

54. Any applicant or prospective applicant should feel able to visit the relevant Unit and meet prospective colleagues before the AAC/AC forms the short-list and holds interviews. No formal interview or any meeting that forms part of
the selection process should be held during such a visit. Visits must not form part of the selection process.

55. All members of an AAC/AC must be content with the short-list before moving onto the next stage of the process.

(iv) Interview of candidates

56. Before interviews commence, the objective criteria must be reconfirmed. The Chairperson must also remind the AAC/AC of the principles of fairness, equal opportunities and confidentiality.

57. If there is no reasonable alternative, Boards can interview candidates by video link, provided that it does not put the other candidates at a disadvantage. The same AAC/AC should undertake all interviews, including those by video link. AACs/ACs must satisfy themselves of the candidate’s identity when undertaking interviews by video link.

(v) AAC/AC report and recommendations on suitability of individuals

58. The Chairperson of the AAC/AC must ensure that members of the National Panel are content that the candidates being considered for appointment have the necessary skills, training and experience in the appropriate specialty or specialties to enable them to undertake the professional responsibilities and duties of the post.

59. The AAC/AC will recommend the applicant(s) considered suitable for appointment, together with any comments deemed appropriate, in a report to the employing body.

60. The views of National Panellists must be clearly stated where they express material reservations about the candidate recommended for appointment or they disagree with the recommendations of the AAC/AC. The Chairperson must be informed and they in turn must inform the Board.

61. Candidates who require to work on a part-time basis in a whole-time post may, if the AAC considers them suitable, be recommended for appointment.

62. The AAC/AC

• must not give any indication to applicants on their suitability for the post;

• should not recommend a candidate who is not yet able to undertake the responsibilities of the grade; and

• cannot recommend any candidate that it has not interviewed.

63. Selection of a candidate must be based solely on their suitability for the post.
The Chairperson of the AAC/AC must ensure that no assessment is distorted by any possible preconceptions or prejudice. They must be able to clearly demonstrate the decision making process for the recommendation. In making recommendations to the employing NHS Board, the AAC/AC must also demonstrate that there has been no discrimination on the grounds of:

- age
- gender
- relationship status
- race or ethnicity
- religion or belief
- creed
- sexual orientation
- disability
- politics
- membership or non-membership of trade unions and other associations

**Decision by employing body**

It is for individual Health Boards to make an appointment based on the advice of the AAC/AC. However, a Board may decide to make no appointment, even though names of candidates assessed as being suitable have been provided by the AAC/AC. In such circumstances, the Board will be expected to provide reasons to the AAC/AC for not making an appointment. The post may then subsequently be re-advertised and the appointment process started again.

**Record keeping: roles and responsibilities**

All members of AACs/ACs and others involved in the appointments procedure must act fairly in the short-listing and selection of candidates. The courts or Industrial Tribunals may question individual members, or the AAC/AC as a whole, over the reasoning behind accepting or rejecting candidates.

It is therefore crucial that accurate notes are made of proceedings and reasons for accepting and rejecting candidates are suitably recorded. The Chair of the AAC/AC should keep these records for 12 months after the AAC.

Proceedings of the AAC/AC, including notes of discussions, references and other documents must be treated as confidential and stored appropriately.

**NHS Boards: making appointments**

For statutory AACs, Boards may only appoint candidates recommended by the AAC. If the advice of the AAC is contrary to the advice of both of the National Panellists, no appointment should be made. The matter should be referred to the Secretary to the National Panel immediately.
Pre-employment checks and References

70. Before making an appointment, Boards should carry out a full pre-employment check. Note that under Disclosure Scotland Regulations enhanced disclosure should be obtained for roles involving direct patient contact.

71. The following NHS circulars provide guidance on the various checks to be made on the registration, identity and references of doctors and dentists:

- Checks on Doctors’ and Dentists’ Registration, Identity and References, NHS Circular 1977 (PCS) 23 and as amended by NHS Circular 1980 (PCS) 18 and NHS Circular 1988 (PCS) 2;

- Pay and Conditions of Service: Doctors, Dentists and Dental Auxiliaries: Registration and Employment, NHS Circular 1988 (PCS) 2;

- Disclosure of information on pending proceedings/actions by a regulatory body or the police as part of the recruitment process, PCS (DD)2001/1;


72. If a practitioner has to be appointed at short notice, for example as a locum, checks should be made by telephone and written confirmation should be sought as soon as possible.

73. The requirements in the guidance should be fully satisfied before an unconditional offer of appointment is made.

74. References must be taken up at the time of the conditional offer of employment. Details of current GMC/GDC registration must also be checked at this stage.
Part II

Appointing to the Consultant or to an Equivalent Grade
Overview

75. Under the National Health Service (Appointments of Consultants) (Scotland) Regulations 1993, Boards must constitute an AAC to make an appointment to the Consultant grade. An appointment cannot be made unless the candidate has been interviewed by the AAC and has been assessed by the majority of its members as suitable.

76. The AAC does not make the appointment but acts in an advisory capacity to the employing body, which may decide to make no appointment, even although names of candidates assessed as suitable are provide by the AAC. If this happens the employing body will be expected to give the AAC its reasons for not making an appointment.

Eligibility to apply for Consultant Posts

General

77. In order to be eligible to apply for Consultant posts, the law requires that individuals must be registered with the General Medical Council. The European Specialist Medical Qualifications Order 1995 as amended The General and Specialist Practice (Education, Training and Qualifications) Order 2003, SI 2003/1250 requires also that individuals must be on the Specialist Register prior to undertaking a substantive Consultant post. The only exception to this are doctors who held a Consultant post (other than a locum Consultant post) in oral and maxillofacial surgery in the UK health service immediately before 1 January 1997.

Candidates from overseas

78. More information about recruiting candidates from overseas can be found on the Modernising Medical Careers (MMC) website (www.mmc.scot.nhs.uk) under “International Medical Students”. The website also signposts to the Home Office website and the Working in the UK website.

Alternative routes to inclusion on the Specialist Register (Postgraduate Medical Education & Training Board)

79. New arrangements for doctors applying for inclusion on the Specialist Register of the General Medical Council were introduced when PMETB assumed its statutory powers on 30 September 20052. These provide new “routes to the Register” giving doctors, who have not been awarded a Certificate of Completion of Training (CCT) a means to apply for entry to the Register on the basis of relevant training, qualifications and experience. The ability to assess and advise an AAC on an increasing diverse pool of applicants will therefore be essential. More information can be found on the PMETB website at www.pmetb.org.uk

2 Article 14 route to the Specialist Register: General and Specialist Medical Practice (Education, Training and Qualifications Order 2003 as amended
80. In the case of Consultant dental posts, individuals must be a registered dental practitioner or a fully registered medical practitioner.

Specialist registrars applying for consultant appointments – “the six month rule”

81. Trainees may explore the possibility of post-CCT careers as soon as it is apparent that a CCT will be awarded in the near future. Specialist Registrars who have not completed their training are eligible to apply for Consultant medical or dental posts, provided that the date of the interview for the Consultant post is held within 6 months of the expected date of the award of their CCT\(^3\) (or recognised equivalent of outside the UK).

82. Candidates must include a confirmatory certificate signed by their Postgraduate Dean, which states the date of completion of training, as given by their specialist advisory higher training committee or Royal College. The AAC must be satisfied that the applicant is sufficiently near to the completion of training to enable them to judge the applicant’s suitability for a consultant post. Should difficulties arise in operating these arrangements the Secretary to the National Panel should be contacted.

83. These arrangements must be read in conjunction with paragraphs 107-108 on locum consultant and “acting-up” appointments for Specialty Registrars.

Consultant: Constitution of the AAC

84. The constitution of the AAC for Consultants is outlined at Annex B.

Appointment to posts in Public Health: Consultants and Specialists

85. The procedure for appointing a Consultant in Public Health medicine or Dental Public Health, including a Chief Administrative Officer and Director of Public Health is set out in the National Health Service (Appointment of Consultants) (Scotland) Regulations 1993.

Constitution of the AAC for Consultants in Public Health

86. The constitution of the AAC for Consultant posts in Public Health is outlined in Annex D.

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\(^3\) The Certificate of Completion of Training (CCT) replaced the Certificate of Completion of Specialist Training (CCST) when the Postgraduate Medical Education and Training Board (PMETB) assumed its UK competent authority role in 2005.
Constitution of the AAC for Specialists in Public Health

87. Some public health posts will be advertised for either a Consultant or a Specialist. The Scottish Executive recommends that the appointment procedure for Specialists in public health follows the statutory regulations for Consultant appointments from the start of the process, and should reflect the multidisciplinary nature of the post being advertised.

88. The constitution of the AAC for Specialists in public health is outlined in Annex E.

Medical Director

89. Guidance has been issued on the procedures to follow for the appointment of Medical Directors: Guidance on the appointment of NHS Trust Medical Directors, NHS MEL (1998) 13. For some appointments an AAC may be appropriate. National Panellists are involved in circumstances where it is deemed appropriate to hold an AAC as part of the appointment process.

Exempted Appointments

90. A number of appointments are exempt from the provisions of The National Health Service (Appointment of Consultants) (Scotland) Regulations 1993 and include:

- academic and research staff honorary contracts;
- appointments to Consultant or Grade C Clinical Scientist posts (but see paragraph 96);
- appointments to Specialty Training posts (both run-through and fixed term) under Modernising Medical Careers (MMC);
- appointments following redundancy or re-organisation of services;
- locum appointments; and
- limited duration appointments.

Academic and research staff - Honorary Contracts

91. The employer carries the same liability in law for the actions of their honorary staff as it does for paid staff. To grant an honorary NHS contract, the employing Board must be satisfied that the practitioner is competent to carry out the clinical duties required.

92. The Medical Research Council (MRC), as well as numerous universities has established arrangements in place for consulting NHS Boards. Existing practices should be followed. Universities and the MRC usually apply to an
employing body or Health Board for an honorary NHS Consultant contract on behalf of clinical academic and research staff of appropriate seniority.

93. The employing body or Health Board should participate in the selection process to a post that may attract an honorary NHS Consultant as follows:

- two National Panellists must be included in the selection process before an Honorary Consultant contract is granted.

- Universities must consult with the relevant employing body or Health Board before appointing clinical members to their appointment committees.

- NHS Consultant representation from staff of the main hospital in which the successful candidate will be undertaking clinical work should be included.

Transfer of doctors or dentists holding honorary NHS Consultant appointments to substantive paid NHS appointments

94. Holders of honorary NHS contracts cannot be appointed to fill paid NHS consultant posts without fulfilling the provisions of the AAC Regulations unless the duties of the post remain substantially the same and Scottish Ministers approve.

Appointments to Consultant/Grade C Clinical Scientist Posts

95. In exceptional circumstances, Boards may advertise a post suitable for either a consultant or a Grade C Clinical Scientist.

96. The procedure for appointing a Grade C Clinical Scientist follows the procedure for recruitment of consultants, however, 2 members from the National Panel of Assessors – Clinical Scientists replace the 2 members from the National Panel of Specialists on the AAC.

97. The constitution of an AAC for a Consultant or Grade C Clinical Scientist post is outlined in Annex F.

Appointments following redundancy or reorganisation of services

98. Boards have a moral obligation to provide assistance to Consultants being made redundant, to obtain comparable work elsewhere.

99. The following situations are exempt from the provisions of The National Health Service (Appointment of Consultants) (Scotland) Regulations 1993:

- where the applicant has been made redundant within the previous 2 years;

- transfers from one employing body to another, where the employment of the consultant would otherwise be terminated on grounds of redundancy.
**Locum appointments**

100. Locum appointments are not subject to the full procedures used for substantive appointments.

101. Guidance on the appointment of locums is provided in *The Code of Practice in the Appointment and Employment of Locum Doctors*.

102. Appointments for locums under the terms and conditions of service are made in various circumstances:

- to cover the temporary absence of the permanent job holder;
- to meet an urgent service need until a substantive appointment can be made; and to
- provide “bridging” arrangements during an interim period when services are being reorganised locally

103. Locum appointments should be short term only. It may not, however, be possible to determine the duration of the appointment at the outset. Where a locum appointment extends beyond 3 months, the situation should be reviewed, and again at 3 monthly intervals thereafter. This requirement should be included in any appointment letter.

104. The review should include:

- an assessment of the locum’s suitability for continuing in the post
- consideration and determination of a more suitable means of meeting service needs, for example:
  - making a substantive appointment
  - rearranging duties of existing staff

105. The following points are relevant when appointing locums:

- It is the responsibility of the employing body to ensure that practitioners appointed as locums have the appropriate experience and qualifications for the job. Practitioners who hold, or who have held posts of Consultant status, or practitioners with equivalent experience, should be appointed as locum Consultants.
- Where possible, candidate(s) should be assessed by an AC with at least 2 professional members, one of whom should be in the specialty concerned.

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• Where the Consultants or Specialist colleagues do not know a prospective locum, they should be seen by at least one Consultant or colleague prior to appointment.

• It may be necessary to waive this procedure where a locum is needed urgently. However, there should always be some professional involvement in the appointment of all locums.

• It is important that references are obtained for all locum appointments irrespective of the short term-nature of the post.

106. The advice of National Panel members should be sought in cases of difficulty.

**Locum Consultant and “acting-up” appointments for Specialty Registrars**

107. All training must be in a supervised capacity. PMETB is the competent authority and will only permit Specialist Registrars to take up Locum Consultant Appointments *when they have completed their training programme*. It is therefore not possible for a Specialist Registrar to carry out locum Consultant duties prior to the award of a CCT. If an individual decides, chooses, or is invited to carry out a locum Consultant position for periods of up to 3 months before the award of a CCT, then it will be necessary to lengthen the CCT date by that amount (see relevant guidance\(^5\)). Such experience could not be counted as supervised. Clinical indemnity would be a matter for the employer. Post CCT, prior approval from the Postgraduate Dean is necessary before the doctor takes up such an appointment.

108. The acting up arrangements for Specialty Registrars are still to be confirmed.

**Limited duration Consultant Appointments**

109. Certain appointments may be for a limited period of time, pending a reorganisation of the service. For example:

• where several limited session posts are to be amalgamated

• hospital closure

110. Such appointments are exempt from the provisions of The National Health Service (Appointment of Consultants) (Scotland) Regulations 1993, provided that the duration of the post does not extend beyond 2 years.

111. The local profession should be consulted on such proposals.

112. Limited duration appointments should be considered in the same way as locum appointments.

\(^5\) For Specialist Registrars the relevant guidance is the “Orange Guide”
For Specialty Registrars the relevant guidance is the “Gold Guide”
Part III

Appointment to other Grades
Honorary Specialist Registrars

113. University appointments in academic clinical medicine are a matter for the relevant university.

Associate Specialists

114. Other than by exception, Associate Specialist appointments are by personal re-grading after approval by The Scottish Executive on the advice of SACMW-HCHS (Scottish Advisory Committee on the Medical Workforce, Hospital and Community Health Service Sub-Committee).

115. The advice of one National Panellist in the appropriate specialty should be obtained before the sub-committee confirms approval for re-grading the application. The National Panellist will be required to comment on individual applications for re-grading or, in the very exceptional circumstances, when associate specialists are to be appointed in open competition, to sit on the AC.

116. A practitioner appointed to the grade should have (see relevant guidance)\(^6\):

- served for a minimum of 4 years in the Registrar or Staff Grade, at least 2 of which have been in the appropriate specialty. Equivalent service is also acceptable;

- completed 10 years medical work (either in a continuous period or in aggregate) since obtaining a primary medical qualification which is (or would at the time have been) acceptable by the GMC for full, limited or temporary (but not provisional) registration.

Staff Grades

117. The Staff Grade is a permanent career graded of limited responsibility (see relevant guidance)\(^7\). Applicants are hospital medical or dental officers who:

- have held a hospital appointment in the Senior House Officer (SHO) or exceptionally in a higher grade or their equivalent; and

- are normally appointed without term, subject to a satisfactory completion of a probationary period. Exceptionally, a fixed-term appointment may be offered for a period up to 5 years, renewable annually.

\(^6\) *Hospital Medical and Dental Staff: Pay and Conditions of Service – Criteria for Appointment to the Associate Specialist Grade, NHS Circular No 1990 (PCS) 2 and NHS Circular PCS (DD) 1993/3*

\(^7\) *Hospital Medical and Dental Staff: Pay and Conditions of Service – The New Hospital Staff Grade, NHS Circular No 1989 (PCS) 4, (superceded by NHS Circular PCS(DD) 1997/5 in many respects).*
**Conditions of appointment**

118. Practitioners appointed to Staff Grade appointments must:

- have full registration, or if they are a dentist, must be registered;
- have completed at least 3 years full-time hospital service in the SHO or a higher grade, including adequate experience in the relevant specialty; or shall have equivalent experience.

**Advertising Staff Grade posts**

119. All Staff Grade posts should be advertised in at least one nationally available professional journal.

120. If, for exceptional reasons, a waiver from advertising is sought, approval from the Scottish Executive Health Department must be sought.

**Staff Grades: Constitution of the AC**

121. The constitution of an AC for Staff Grade posts is outlined in Annex G.

**Hospital Practitioners**

122. The Hospital Practitioner grade is open to all principals in general, provided the individual has been fully registered for a minimum of four years and who satisfies one or more of the following conditions:

- two years’ whole-time hospital experience in a specialty or specialties appropriate to the Hospital Practitioner appointment in question, or experience in a part-time hospital appointment or appointments, or any combination of appropriate whole-time and part-time experience which provides comparable experience to two years’ whole-time in the appropriate specialty or specialties; or
- possession of an appropriate higher or further qualification and experience in a part-time medical officer appointment (under Terms and Conditions of Service of Hospital and Medical and Dental Staff, paragraph 94) or part-time Dental Officer appointment (under paragraph 107) over a total of five years (not necessarily continuous) appropriate to the Hospital Practitioner appointment in question; or
- such other experience, e.g. in HM Forces or overseas, as is deemed to meet any of the above criteria.

**Hospital Practitioners: Constitution of the AC**

123. The constitution of an AC for a Hospital Practitioner is outlined in Annex H.
ANNEX A

Statutory Instrument 1993 No. 994 (S.140)

The National Health Service (Appointment of Consultants) (Scotland) Regulations 1993

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The National Health Service (Appointment of Consultants) (Scotland) Regulations 1993

Made 1st April 1993
Laid before 13th April 1993
Parliament 1993
Coming into force 4th May 1993

The Secretary of State, in exercise of the powers conferred on him by sections 105(7) and 108(1) of, and paragraphs 5 and 6 of Schedule 1 and paragraphs 7 and 8 of Schedule 5 to, the National Health Service (Scotland) Act 1978[1], as read with article 5 of, and Part I of the Schedule to, the Health Education Board for Scotland Order 1990[2], and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement
1. These Regulations may be cited as the National Health Service (Appointment of Consultants) (Scotland) Regulations 1993 and shall come into force on 4th May 1993.

Interpretation
2.—(1) In these Regulations, unless the context otherwise requires-
"the Act" means the National Health Service (Scotland) Act 1978;
"the Agency" means the Common Services Agency for the Scottish Health Service constituted in terms of section 10(1) of the Act[3];
"Authority" means a Health Board, the Health Education Board for Scotland or the Agency (acting through the management committee);
"committee" means an Advisory Appointments Committee appointed in accordance with regulation 7;
"consultant" means-
(a) in relation to a relevant specialty, a registered medical or dental practitioner who is a consultant in the relevant specialty;
(b) a consultant in public health medicine including a Chief Administrative Medical Officer and Director of Public Health; or
(c) a consultant in Dental Public Health,
and "consultant post" shall be construed accordingly;
"General Manager" means, in relation to-
(a) a Health Board;
(b) the Health Education Board for Scotland; or
the Agency,
the person holding the post or performing the duties of
general manager thereof;
"hospice" means an institution which provides hospital
accommodation wholly or mainly for persons resident who
are terminally ill;
"the management committee" means the management
committee of the Agency constituted in terms of paragraph
3 of Schedule 5 to the Act;
"NHS trust" has the meaning indicated by section 12A of
the Act;
"the Panel" means the National Panel of Specialists
constituted in accordance with regulation 6;
"professional person", in relation to a proposed
appointment, means, if it is a medical appointment, a
registered medical practitioner and, if it is a dental
appointment, a registered dental practitioner;
"Relevant specialty", in relation to a proposed
appointment, means the branch of medicine or dentistry in
which it is proposed to make the appointment.

(2) Any reference in these Regulations to a committee of an
Authority shall in relation to the Agency be construed as a
reference to a sub-committee of the management committee.

(3) Unless the context otherwise requires, any reference in
these Regulations to a numbered regulation is a reference to the
regulation bearing that number in these Regulations, and any
reference in a regulation to a numbered paragraph is a reference to
the paragraph bearing that number in that regulation.

Appointments to which the regulations apply

3. These Regulations shall apply to appointments to consultant
posts on the staff of an Authority and, unless the context otherwise
requires, any reference therein to an appointment shall be
construed as a reference to such an appointment.

Exempted appointments

4.—(1) For the purposes of regulations 5, 7, 8 and 9, each of
the following appointments shall be an exempted appointment,
namely, any appointment-

(a) to an honorary consultant post including, in particular,
any such appointment of a person who is and will continue
to be-

(i) a professor, reader or other member of a
medical or dental department of a university;
(ii) a research worker for the purposes of whose
research it is necessary or expedient that he be
appointed to the staff of an Authority; or
(iii) a medical practitioner who is on the staff of a
hospice to provide medical services in the hospice;

(b) for a period not exceeding—
(i) in the case of an appointment on a *locum tenens* basis, 12 months; or
(ii) in any other case, 2 years;

(c) of a person whose employment by an Authority other than the appointing Authority or by an NHS trust in a consultant post ("his former post") has been, or is about to be, terminated as part of, or in consequence of, a local reorganisation, if the appointment is-

(i) to fill a post the duties of which are substantially the same as those of his former post; and
(ii) to give effect to a transfer approved by the Secretary of State;

(d) of a person whose employment, or last employment, by-

(i) an Authority (including the appointing Authority) or an NHS trust; or

(ii) in England or Wales, a Regional Health Authority, a District Health Authority, the Special Hospitals Service Authority[^6], a Teaching Authority or an NHS trust established under Part I of the National Health Service and Community Care Act 1990[^7],

in a consultant post ("his former post") has been, or is about to be, terminated by reason of redundancy or as part of, or in consequence of, a local reorganisation, if the appointment is made both in anticipation of, or within two years after, that termination of employment and to fill a post the duties of which are substantially the same as those of his former post;

(e) of a person whose concurrent employment by a university, the Medical Research Council or other similar body and, in an honorary consultant post, by an Authority (including the appointing Authority) ("his former post") has been, or is about to be, terminated, if the appointment is-

(i) to fill a post the duties of which are substantially the same as those of his former post; and
(ii) to give effect to a transfer approved by the Secretary of State;

(f) of a person whose employment in a consultant post by an Authority other than the appointing Authority or by an NHS trust is expected to continue, if the appointment is to fill a post the duties of which will normally not exceed one day's work (or its equivalent) in each fortnight.

(2) In this regulation-
"employment" includes part-time employment, whether or not the officer is also employed by any other Authority or an NHS trust (or, in England or Wales, by a Regional Health Authority, a District Health Authority, a Teaching Authority or a Teaching Authority).
Authority or the Special Hospitals Service Authority or an NHS trust established under Part I of the National Health Service and Community Care Act 1990; "honorary", in relation to a consultant post, means that the employment in that post is on terms that the holder receives no remuneration therefore; "Remuneration" does not include any distinction award or the defraying of expenses involved in the carrying out of the duties of a hospital appointment.

Advertisement of appointments

5.—(1) The provisions of this regulation shall apply in relation to any appointment to a consultant post except:
(a) an exempted appointment;
(b) an appointment to a regraded post.

(2) For the purposes of this regulation "appointment to a regraded post" means the first appointment to any consultant post—
(a) which the Authority has resolved shall be regraded as a consultant post attracting substantially the same duties as those attaching to the post prior to regrading; and
(b) where the Secretary of State considers that it is not against the interests of the National Health Service that that post may be filled without advertisement.

(3) Where an Authority propose to make an appointment to which this regulation applies they shall place an advertisement in no fewer than two publications circulating throughout the United Kingdom which are commonly used for similar advertisements relating to the profession concerned; but where such advertisement is not reasonably practicable the Authority shall advertise the post in such other publications as they think appropriate.

(4) Any advertisement shall specify the exact nature of the appointment and the closing date for receipt of applications, which date shall be not less than one month from the date on which the advertisement appears.

(5) Where such an advertisement is in respect of a wholetime post, the advertisement shall include a statement to the effect that applicants for appointment for less time than is required to carry out the full duties of the post will be considered if they are unable to undertake wholetime work.

National Panel of Specialists

6.—(1) Subject to the following provisions of this regulation, the Secretary of State shall constitute a panel for the purpose of providing members of Advisory Appointments Committees appointed in accordance with regulation 7 and that panel shall be known as the National Panel of Specialists.
(2) The Panel shall consist of not more than 350 members holding consultant posts of whom-
   (a) not more than 70 shall be nominated by one or more of the Universities of Glasgow, Aberdeen, Edinburgh and Dundee;
   (b) not more than 225 shall be nominated by one or more of such professional post-graduate bodies or organisations as appear to the Secretary of State from time to time to be representative of the medical and dental professions; and
   (c) not more than 55 shall be persons not so nominated.

(3) Each member of the Panel shall be appointed-
   (a) for such period not exceeding 4 years as the Secretary of State shall specify;
   (b) subject to any conditions as to re-appointment which the Secretary of State may impose.

(4) After retiral from a consultant post a member of the Panel may complete his term of office unless he first attains the age of 70 years, at which age he shall cease to be a member.

(5) The Secretary of State shall appoint a registered medical practitioner as Secretary of the Panel.

Constitution of Advisory Appointments Committee

7.—(1) For the purposes of making any appointment other than an exempted appointment, an Authority making the appointment shall constitute an Advisory Appointments Committee in accordance with the following provisions of this regulation.

(2) Subject to paragraphs (3) to (5), a committee shall consist of-
   (a) 4 members appointed by the Authority and of those members-
      (i) 1 shall act as chairman;
      (ii) not fewer than 2 shall be professional persons;
      (iii) 1 shall be the General Manager; and
      (iv) where the appointment is in public health medicine, 1 shall be the Chief Administrative Medical Officer and Director of Public Health or, if for reasonable cause he is unable to act, a consultant in public health medicine;
   (b) 2 members appointed from the Panel who are in the relevant specialty of whom at least 1 is not employed by the Authority making the appointment; and
   (c) in the case of an appointment involving undergraduate teaching duties-
      (i) 2 members; or
      (ii) where, following consultation with the University concerned, the Authority considers that
the appointment carries major teaching responsibilities, a maximum of 4 members, nominated by the University concerned.

(3) Except in the case of an appointment of-
(a) a Chief Administrative Medical Officer and Director of Public Health; or
(b) a consultant in Dental Public Health,
if the General Manager is for reasonable cause unable to act for the purpose of paragraph (2)(a)(iii), the Authority may appoint a senior manager on their staff to act in his place.

(4) For the purpose of paragraph (2), where an Authority-
(a) propose making an appointment to a post of part-time consultant; and
(b) after consulting an NHS trust, consider it likely that the person appointed will also be appointed to, or be the holder of, a part-time consultant post on the staff of that NHS trust and will serve concurrently in the two part-time posts,
then the Authority may appoint as additional members of the committee-
(i) the Chief Executive of the NHS trust concerned or, if for reasonable cause he is unable to act, another senior officer of that NHS trust; and
(ii) after consultation with that NHS Trust, up to 3 further persons, 2 of whom shall be professional persons.

(5) For the purpose of paragraph (2)(b)-
(a) where there are not 2 members of the Panel in the relevant specialty, the members appointed from the Panel thereunder shall include one (if there is one) in the relevant specialty and, subject thereto, shall be members of the Panel in the most appropriate specialty or specialties;
(b) where there are one or more members of the Panel in the relevant specialty but that member is, or those members are, for reasonable cause unable to accept appointment to a committee at any particular time or times, the members appointed shall include-
(i) if only one member in the relevant specialty is unable to act, another member who is; or
(ii) if all of those members in the relevant specialty are unable to act, 2 other members who are, in the most appropriate specialty or specialties.

Selection by committee
8.—(1) In the case of a post advertised in pursuance of regulation 5, the Authority shall refer to the committee all applications for the post received on or before the closing date specified in the advertisement, and may also refer an application received after that date if they are satisfied that there is a
reasonable explanation for the failure to submit the application in time.

(2) In the case of appointment to a regraded post within the meaning of regulation 5(2) the Authority shall fix a closing date for receipt of the application for such a post and shall thereafter refer the application to the committee.

(3) The committee shall consider all applications so referred to them and may interview any of the applicants in order to select the persons whom the committee consider to be suitable for the appointment.

(4) Thereafter the committee shall submit to the Authority a report stating-
   (a) the names of the persons recommended by the committee as being suitable for the appointment;
   (b) the order in which those persons are so recommended; and
   (c) the comments of the committee (including in particular the views of the members from the Panel) on the suitability of those persons for appointment,
   but such report shall not include the name of any person who has not been interviewed in accordance with paragraph (3).

(5) Where an Authority propose to make an appointment to a whole-time post but in the opinion of the committee one or more applicants would be suitable for appointment for less than whole-time they shall submit to the Authority the names of any such applicants and may add such comments as they consider appropriate.

(6) If the committee consider that none of the applicants is suitable for the appointment they shall so inform the Authority.

(7) No applicant shall be considered suitable for appointment unless a majority of the members of the committee considers him to be suitable and in the event of an equality of votes the Chairman shall not have a casting vote.

Appointment by the Authority

9.—(1) An appointment shall be made by the Authority, or, if the Authority so delegate, by the appropriate committee of the Authority (other than an Advisory Appointments Committee), but neither the Authority nor a committee of the Authority to which power to make an appointment has been delegated shall make an appointment other than an exempted appointment except from persons selected by a committee pursuant to regulation 8.

(2) The Authority shall not delegate power to make an
appointment to an Advisory Appointments Committee.

(3) Neither the Authority nor such a committee of the Authority as is mentioned in paragraph (1) shall appoint any person who, in respect of his application for the appointment, has canvassed any member of the Authority or of such a committee.

(4) Where a post has been advertised in pursuance of regulation 5 but the Authority decide not to make an appointment from persons named by a committee or where an Authority are informed pursuant to regulation 8(6) that none of the applicants is suitable, the committee shall be discharged but, unless the Authority discontinue their proposal to make the appointment, these Regulations shall apply in relation thereto as though the post had yet to be advertised in pursuance of regulation 5 and applications had yet to be referred to an Advisory Appointments Committee in pursuance of regulation 8.

Revocation and transitional provisions

10.—(1) Subject to paragraph (2), the National Health Service (Appointment of Consultants and Community Medicine Specialists) (Scotland) Regulations 1986(3) are hereby revoked.

(2) Where, before 4th May 1993 an Advisory Appointments Committee has been constituted under the National Health Service (Appointment of Consultants and Community Medicine Specialists) (Scotland) Regulations 1986 to select a person for appointment after that date, those Regulations shall apply in respect of that appointment as if these Regulations had not come into force.

Fraser of Carmyllie

Minister of State, Scottish Office
St. Andrew's House, Edinburgh

1st April 1993

EXPLANATORY NOTE

(This note is not part of the Regulations)
These Regulations, which provide for the method of appointing consultants in the National Health Service in Scotland, supersede the National Health Service (Appointment of Consultants and Community Medicine Specialists) (Scotland) Regulations 1986. The Regulations prescribe the procedures relating to the appointment of consultants in Scotland by Health Boards, the Health Education Board for Scotland or the Common Services Agency for the Scottish Health Service. Certain kinds of appointment are exempted (regulations 3 and 4). Provision is made for advertisement of appointments except in relation to certain regraded posts (regulation 5).

The Regulations provide for the constitution of a National Panel of Specialists consisting of consultants nominated by Universities; by professional postgraduate bodies or organisations representative of the medical and dental professions; and by the Secretary of State. Members of Advisory Appointments Committees are drawn in part from consultants who are members of the Panel. Provision is made for the constitution of such committees to select candidates suitable for appointment as consultants (regulations 6, 7 and 8).

The principal changes made by the new Regulations are-

(a) provision for enlarging the National Panel of Specialists and removal of certain restrictions on the appointment of its members;

(b) further specification of the categories of members to be appointed to Advisory Appointments Committees;

(c) provision for appointing persons to Advisory Appointments Committees who are representative of NHS trusts in certain cases.

The Regulations contain transitional provisions to the effect that the 1986 Regulations will continue to apply in the case of an Advisory Appointments Committee constituted thereunder prior to the date of coming into force of these Regulations in respect of an appointment which will be made on or after that date.

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Notes:

[1] 1978 c. 29; Section 105(7) was amended by the Health Services Act 1980 (c. 53) (“the 1980 Act”), Schedule 6, paragraph 5 and Schedule 7 and by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 9, paragraph 24; section 108(1) contains a definition of "regulations" relevant to the exercise of the statutory powers under which these Regulations are made; paragraph 5 of Schedule 1 was amended by the 1980 Act, Schedule 6, paragraph 7(2)(b) and paragraph 7 of Schedule 5 was amended by the 1980 Act. Schedule 6, paragraph
8(3)(b) and Schedule 7. back


[3] Section 10(1) was amended by the Health Services Act 1980 (c. 53), Schedule 6, paragraph 2. back

[4] Paragraph 3 was amended by the National Health Service and Community Care Act 1990 (c. 19) ("the 1990 Act"), Schedule 5, paragraph 9. back

[5] Section 12A was inserted by the 1990 Act, section 31. back

[6] See the Special Hospitals Service Authority (Establishment and Constitution) Order 1989 (S.I. 1989/948), to which there is an amendment not relevant to these Regulations. back


Consultant Appointments: Constitution of the Advisory Appointments Committee (AAC)

For Consultant appointments, the AAC must consist of the following representatives:

**From the Employing Body**

**At least 4 members, of whom:**

- 1 shall act as a **Chairperson**
- at least 2 must be **registered medical or dental practitioners** (i.e. 2 registered medical practitioners for medical appointments; 2 registered dental practitioners for dental appointments)
- 1 shall be the **Chief Executive** or **General Manager**

**From the National Panel of Specialists**

- 2 members in the appropriate or most appropriate specialty, and 1 member **must not** be employed by the Board making the appointment

**From the University (only if the post involves undergraduate teaching duties)**

- 2 members nominated by the University concerned (or 4 members if the teaching commitment is significant* - see note 5).

HR Departments may find the flow chart at Annex C helpful when checking the constitution of the AAC.
**Important Notes**

**Note 1:** The AAC should include a member of the employing body’s clinical staff who should be a Consultant working in the clinical or dental service (that is in the same group of hospitals or specialty to which the appointment is to be made). In the case of laboratory and radiology or imaging services, the Head of Department or the recognised Deputy should sit on the AAC. In order to assist with the making of their nominations of registered medical or dental practitioners for the AAC, employing bodies are advised to seek appropriate local professional advice.

**Note 2:** If the Chief Executive of a Health Board or relevant General Manager is medically or dentally qualified, they should not count as one of the two registered medical or dental practitioners on the AAC.

**Note 3:** If the Chief Executive or General Manager is, for reasonable cause, unable to act, a senior manager may act in their place. The senior manager should be the recognised Deputy of the Chief Executive or the General Manager. These arrangements must be confirmed with the Chairperson of the AAC.

**Note 4:** Where there are not two members of the National Panel in the relevant specialty, members of the National Panel in the most appropriate specialty or specialties must act.

**Note 5:** Where a post involves teaching responsibilities, the employing body must consider the extent of these duties and ensure that there is an appropriate number of representatives from the University on the AAC. A maximum of four University representatives are allowed to sit on an AAC only if the post carries a major undergraduate teaching responsibility – this level of undergraduate teaching commitment would be the exception rather than the rule. If in doubt, the Dean of the Medical School/Dental School must consult with the officers of the employing body.

**Other information**

**Note 6:** If a new hospital or service has opened, there may be no Consultant meeting the definition of a member of clinical staff. In such cases, a Consultant employed by the Board making the appointment may sit on the AAC.

**Note 7:** Where a newly recognised specialty is concerned, the employing Authority should consult the Secretary of the National Panel of Specialists regarding appropriate Panel representatives.
Annex C

Current AAC Composition Process

Do you have 4 AAC members from the Employing body comprising:

- A chairperson
- 2 registered medical or dental practitioners
- a chief executive or general manager

Start again

No

Do you have an internal National Panellist from the appropriate specialty?

No

Seek advice from the AAC Chair re a suitable National Panellist from the next most appropriate specialty

No

Have you tried all the National Panellists listed under that specialty?

No

Keep trying!

Yes

Seek advice from the AAC Chair or Medical Director re the next most appropriate specialty

No

If you are still unable to secure a National Panellist, contact Veronica Moffat on 0131 244 1712

Yes

Do you have 2 National Panel members from the appropriate or nearest alternative specialty (one of which must not be employed by the Board making the appointment?)

No

Do you have an independent NP from the appropriate specialty? (i.e. not employed by the Board making the appointment?)

No

Have you tried all the National Panellists listed under that specialty?

No

Keep trying!

Yes

Approach the University concerned for 2 nominations

Yes

Approach the University concerned for 4 nominations

No

Does the post involve undergraduate teaching?

No

The composition of your AAC is satisfactory

Yes

Is the teaching commitment significant?

No

Approach the University concerned for 2 nominations

Yes

Approach the University concerned for 4 nominations
Consultant Posts in Public Health: Constitution of the Advisory Appointments Committee (AAC)

From the Employing body

At least 4 members of whom:

- 1 shall act as the Chairperson
- at least 2 must be registered medical or dental practitioners
- 1 shall be the Chief Executive or General Manager*
- the Chief Administrative Medical Officer and a Director of Public Health, or if for reasonable cause they are unable to act, a Consultant in public health medicine.

From the National Panel of Specialists:

- 2 members in the appropriate or most appropriate specialty and at least 1 must not be employed by the Board making the appointment.

From the University (only if the post involves undergraduate teaching duties):

- 2 members nominated by the University concerned (or 4 members if teaching is significant).

Important Notes

Note 1: *For the following appointments the responsibility of the Health Board General Manager MUST NOT be delegated: Chief Administrative Medical Officer, Director of Public Health and Consultant in Dental Public Health.

Note 2: In cases where the appointment is in Public Health medicine, the Director of Public Health (DPH) or Chief Administrative Officer must sit on the AAC. If, for reasonable cause they are not able to act, a Consultant in Public Health Medicine must sit on the AAC.
Specialist Posts in Public Health: Constitution of the Advisory Appointments Committee (AAC)

From the Employing body

At least 4 members of whom:

- 1 shall act as the Chairperson
- at least 2 must be registered medical or dental practitioners
- 1 shall be the Chief Executive or General Manager*
- the Chief Administrative Medical Officer and a Director of Public Health, or if for reasonable cause they are unable to act, a consultant in public health medicine.

From the National Panel of Specialists:

- 2 members in the appropriate or most appropriate specialty and at least 1 must not be employed by the Board making the appointment.

From the Public Health Professional Assessors:

- 1 member from an appropriate background other than medicine

Important Notes

Note 1: For information on appointments to Public Health posts, please contact the Faculty of Public Health's Specialist Adviser in Scotland: Phil Mackie on 0131 536 9292 or e-mail: Phil.Mackie@lhg.scot.nhs.uk

Note 2: The Faculty of Public Health has a website at www.fph.org.uk
## Annex F

### Appointments to Consultant/Grade C Clinical Scientist Posts – Constitution of AAC

**From the Employing body**

At least 4 members of whom:

- 1 shall act as the Chairperson
- at least 2 must be registered medical or dental practitioners
- 1 shall be the Chief Executive or General Manager*
- the Chief Administrative Medical Officer and a Director of Public Health, or if for reasonable cause they are unable to act, a Consultant in Public Health medicine.

**Note:** Where possible, one person should be a non-clinical scientist

**From the National Panel of Specialists**

- 2 members in an appropriate specialty

**From the National Panel of Assessors – Clinical Scientists**

- 2 members

A copy of the list of National Panel of Assessors for Clinical Scientists can be obtained from Charles McKendrick, Scottish Executive Health Department, Ground Rear, St Andrew’s House, Regent Road, Edinburgh EH1 3DG Tel: 0131 244 2483 charles.mckendrick@scotland.gsi.gov.uk

### Important Notes

**Note 1:** For Consultant Clinical Scientist Posts, member from the National Panel of Assessors – Clinical Scientists must be present at all interviews, however, they do not participate, nor do they vote in the assessment of candidates’ suitability.

**Note 2:** For Grade C Clinical Scientist Posts, the National Panellists must be present at all interviews, however they do not participate, nor do they vote in the assessment of candidates’ suitability.
**Note 3:** This enlarged AAC would perform 3 distinct functions:

- As an AAC for medical candidates;
- As an AAC for non-medical candidates; and
- As a joint AAC when considering its overall functions

**Note 4:** The AAC in its role as a “consultant” AAC reports recommendations to the employing body, as normal and in its joint role, the AAC would also produce a further statement setting out its views on the relative merits of all candidates interviewed.
Staff Grade Posts: Constitution of the AC

The employing body should constitute an AC comprising, at least, the following representatives:

- a Chairperson appointed by the employing body;
- a National Panellist in an appropriate or next most appropriate specialty; and
- a professional member in the relevant specialty from the employing body appointed on the advice of the appropriate clinical division.
Hospital Practitioner Posts: Constitution of the AC

The AC should consist of the following representatives:

- A lay member who might, as appropriate, act as Chairperson;
- A General Practitioner;
- A Consultant in the specialty concerned;
- A Consultant with whom the Hospital Practitioner will work;
- A National Panellist in the appropriate specialty;
- A representative from the University may be included (See NHS Circular No. 1979 (PCS)20)
FREQUENTLY ASKED QUESTIONS

Difficulties securing National Panellists

Q1: I am trying to arrange an AAC and have managed to secure an internal National Panellist but am having difficulty in getting an external panellist in the appropriate specialty. An existing member of the AAC who is on there to provide the university role is willing to “wear two hats”; ie cover their own role as well as the National Panel role. Is this okay?

A No. This could compromise the integrity of the AAC. If the internal National Panellist can provide advice on the specialty/subspecialty areas of the post, you must approach other National Panellists on the list to provide the external National Panel input. You should approach National Panellists is the appropriate specialty in the first instance, but because the Specialty/subspecialty interest is already represented on the AAC, you can approach any National Panellist to provide the external National Panellist input.

Q2: I am recruiting to a Consultant post in a very specialised area. I cannot see a National Panellist on the list that could provide appropriate input to the AAC process.

A The National Panel of Specialists does not include representation from every subspecialty that currently exists. Therefore, recruiting NHS Boards have to be realistic about ensuring that a National Panellist can give their expertise on the main specialty area of the post and try to ensure the other specialty area(s) are covered in either the second National Panellist or can, if they wish, invite other representation to provide an opinion on the subspecialty area.

Q3: We are having difficulty securing a National Panellist for our AAC. Can we use someone from the National Panel of Assessors used in England?

A No. The AAC is for Scottish Appointment and you have to use someone appointed under the National Health Service (Appointment of Consultants) (Scotland) Regulations 1993 – i.e. someone from the Scottish National Panel of Specialists. That would not preclude inviting other individuals to participate in addition to the composition of the AAC as set out in this guidance.

Q4: The National Panellist who has agreed to sit on our AAC is due to retire prior to the AAC date, can he/she still act as a National Panellist?

A The National Health Service (Appointment of Consultants) (Scotland) Regulations 1993 states at para 6(4) “After retrial from a consultant post, a member of the [National] Panel may complete his term of office unless he first attains the age of 70 years, at which age he will cease to be a member”.

Annex I
Eligibility for Consultant Post

Q5: The AAC has shortlisted an SpR within 6 months of his CCT for a Consultant post. If selected, can he take up post straight away?

A No. The “six month rule” is about facilitating pre-selection, not pre-appointment. Shortlisting this individual is perfectly correct, but in order to be appointed to a post at Consultant grade, individuals must be on the specialist register.

Q6: During the shortlisting process, it has come to light that several applicants are awaiting decisions by PMETB about whether they can get onto the Specialist Register. Can I shortlist these applicants?

A No. These candidates would not be eligible for appointment to a Consultant post until they are on the Specialist Register, i.e. PMETB has assessed their competence via Article 14 and has confirmed their Specialist Registration. More information can be found on the PMETB website [www.pmetb.org.uk](http://www.pmetb.org.uk)